

1 TRINETTE G. KENT (State Bar No. 222020)
2 10645 North Tatum Blvd., Suite 200-192
3 Phoenix, AZ 85028
4 Telephone: (480) 247-9644
5 Facsimile: (480) 717-4781
6 E-mail: tkent@lemborglaw.com

7 Of Counsel to
8 Lemberg Law, LLC
9 A Connecticut Law Firm
10 1100 Summer Street
11 Stamford, CT 06905
12 Telephone: (203) 653-2250
13 Facsimile: (203) 653-3424

14 Attorneys for Plaintiff,
15 Timothy Soverns

16
17 UNITED STATES DISTRICT COURT
18 SOUTHERN DISTRICT OF CALIFORNIA
19

20 Timothy Soverns,

21 Plaintiff,

22 vs.

23 Collection Consultants of California,

24 Defendant.

Case No.: '15CV1912 BEN BGS

COMPLAINT FOR DAMAGES

FOR VIOLATIONS OF:

- 1. THE FAIR DEBT COLLECTION PRACTICES ACT; AND**
- 2. THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

JURY TRIAL DEMANDED

1 Plaintiff, Timothy Sovers (hereafter “Plaintiff”), by undersigned counsel,
2 brings the following complaint against Collection Consultants of California (hereafter
3 “Defendant”) and alleges as follows:
4

5 **JURISDICTION**

6 1. This action arises out of Defendant’s repeated violations of the Fair Debt
7 Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”), and repeated
8 violations of the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788,
9 *et seq.* (“Rosenthal Act”).
10
11

12 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), Cal. Civ.
13 Code 1788.30(f), 28 U.S.C. § 1331 and 28 U.S.C. § 1367.
14

15 3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where
16 the acts and transactions giving rise to Plaintiff’s action occurred in this district and/or
17 where Defendant transacts business in this district.
18

19 **PARTIES**

20 4. Plaintiff is an adult individual residing in San Diego, California, and is a
21 “person” as defined by 47 U.S.C. § 153(39) and Cal Civ. Code § 1788.2(g).
22

23 5. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3), and is a
24 “debtor” as defined by Cal. Civ. Code § 1788.2(h).
25

26 6. Defendant is a business entity located in Glendale, California, and is a
27 “person” as the term is defined by 47 U.S.C. § 153(39) and Cal Civ. Code §
28 1788.2(g).

1 7. Defendant uses instrumentalities of interstate commerce or the mails in a
2 business the principle purpose of which is the collection of debts and/or regularly
3 collects or attempts to collect debts owed or asserted to be owed to another, and is a
4 “debt collector” as defined by 15 U.S.C. § 1692a(6).
5

6 8. Defendant, in the ordinary course of business, regularly, on behalf of
7 itself or others, engages in the collection of consumer debts, and is a “debt collector”
8 as defined by Cal. Civ. Code § 1788.2(c).
9

10
11 **ALLEGATIONS APPLICABLE TO ALL COUNTS**
12

13 9. Plaintiff is a natural person allegedly obligated to pay a debt asserted to
14 be owed to a creditor other than Defendant.

15 10. Plaintiff’s alleged obligation arises from a transaction in which property,
16 services or money was acquired on credit primarily for personal, family or household
17 purposes, is a “debt” as defined by 15 U.S.C. § 1692a(5), and is a “consumer debt” as
18 defined by Cal. Civ. Code § 1788.2(f).
19

20 11. At all times mentioned herein where Defendant communicated with any
21 person via telephone, such communication was done via Defendant’s agent,
22 representative or employee.
23

24 12. Within the last year, Defendant began calling Plaintiff in an attempt to
25 collect a debt.
26
27
28

13. During a live conversation in April of 2015, Plaintiff specifically requested that Defendant only call him in the evenings, as Plaintiff worked during the day.

14. Despite Plaintiff's unequivocal request, Defendant continued calling Plaintiff during the day at a time known to be inconvenient to Plaintiff.

15. Plaintiff felt annoyed and harassed by Defendant's calls.

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT, 15
U.S.C. § 1692, et seq.

16. Plaintiff incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

17. The FDCPA was passed in order to protect consumers from the use of abusive, deceptive and unfair debt collection practices and in order to eliminate such practices.

18. Defendant attempted to collect a debt from Plaintiff and engaged in “communications” as defined by 15 U.S.C. § 1692a(2).

19. Defendant communicated with Plaintiff at a time or place known to be inconvenient to the Plaintiff, in violation of 15 U.S.C. § 1692c(a)(1).

20. Defendant engaged in conduct, the natural consequence of which was to harass, oppress, or abuse Plaintiff, in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d.

1 21. Defendant caused Plaintiff's phone to ring or engaged Plaintiff in
2 telephone conversations repeatedly or continuously, with the intent to annoy, abuse
3 and harass Plaintiff, in violation of 15 U.S.C. § 1692d(5).
4

5 22. The foregoing acts and/or omissions of Defendant constitute numerous
6 and multiple violations of the FDCPA, including every one of the above-cited
7 provisions.
8

9 23. Plaintiff was harmed and is entitled to damages as a result of Defendant's
10 violations.
11

12
13 **COUNT II**

14 **VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION**
15 **PRACTICES ACT, Cal. Civ. Code § 1788, *et seq.***

16 24. Plaintiff incorporates by reference all of the above paragraphs of this
17 complaint as though fully stated herein.
18

19 25. The Rosenthal Act was passed to prohibit debt collectors from engaging
20 in unfair and deceptive acts and practices in the collection of consumer debts.
21

22 26. Defendant caused Plaintiff's telephone to ring repeatedly or continuously
23 to annoy Plaintiff, in violation of Cal. Civ. Code § 1788.11(d).
24

25 27. Defendant did not comply with the provisions of 15 U.S.C. § 1692, *et*
26 *seq.*, in violation of Cal. Civ. Code § 1788.17.
27

28 28. Plaintiff was harmed and is entitled to damages as a result of Defendant's
violations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant for:

- A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
- B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- C. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);
- D. Statutory damages of \$1,000.00 for knowingly and willfully committing violations pursuant to Cal. Civ. Code § 1788.30(b);
- E. Costs of litigation and reasonable attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3) and Cal. Civ. Code § 1788.30(c);
- F. Punitive damages; and
- G. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

DATED: August 30, 2015

TRINETTE G. KENT

By: /s/ Trinette G. Kent
Trinette G. Kent, Esq.
Lemberg Law, LLC
Attorney for Plaintiff, Timothy Sovers